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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,319	02/12/2002	Armando M. Diaz	14-120-1	6422

24131 7590 12/13/2006  
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EXAMINER
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MEI, XU

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/074,319

Applicant(s)

DIAZ ET AL.

Examiner

Xu Mei

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 and 32 is/are allowed.
- 6) ☒ Claim(s) 15,16,19-22 and 24-30 is/are rejected.
- 7) ☒ Claim(s) 17-18, 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This communication is responsive to the applicant's amendment dated 09/27/2006.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-16, 19-22 and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yifrach et al (US-5,463,599, hereinafter, Yifrach) in view of Campbell et al (US-2,966,552, hereinafter, Campbell).

Regarding claim 24, Yifrach discloses an apparatus adapted to be connected to a radio (10) that including a storage and playback device (20) connected between a demodulator (13) and an audio amplifier (audio circuit 14) of the radio; and a timer for automatic recording control of the storage and playback device. What does not show by Yifrach is the apparatus including a timer to automatically initiate periodic playback of at least one prerecorded message by the storage and playback device. However, automatic timer control to initiate periodic playback of prerecorded message by the storage and playback device is old and well known in the art. Campbell discloses a system that is connecting to a two-way radio communication that including a timer (14)

Art Unit: 2615

to initiate periodic playback of at least one prerecorded message by the storage and playback device for automatically, pre-selectively, and periodically time controlling the playback of the storage message (see Figure 1; col. 2, lines 12-34; claim 2 in col. 3). It would have been obvious to one of ordinary skill in the art to modify the apparatus of Yifrach with a playback timer that initiate periodic playback of at least one prerecorded message by the storage and playback device for automatically, pre-selectively, and periodically time controlling the playback of the storage message.

Regarding claims 25-29, see microcontroller or logic control element 24 and radio receiver in Figs. 1-2 of Yifrach.

Regarding claim 30, Yifrach or Campbell does not disclose the recorded message is a regular commercial message, however, it would have been obvious to one of ordinary skill in the art that the storage and playback device of Yifrach or Campbell would have been able to store any types of audio messages, commercial or otherwise, as desired to a user.

Claim 15 is similar to claim 24 except for being couched in method terminology; such methods would be inherent when the structure is shown in the references.

Regarding claim 16, the recorded message of Yifrach and Campbell is according to a real time manner.

For what's called in claims 19-22, see Fig. 1 of Yifrach with switching control for interleaving the radio and the recording device. And Yifrach or Campbell for playback real time or pre-stored messages.

***Allowable Subject Matter***

4. Claims 17-18 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 31-32 are allowable over prior art of record.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hubbard, Phelps, Morihiro et al, Yifrach (US-5,126,982), and Mederer are made of record here as pertinent art to the claimed invention.

The cited references above disclose various radio receiver systems having particular messages recording and playback control.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 2615

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xu Mei whose telephone number is 571-272-7523. The examiner can normally be reached on maxi flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Xu Mei  
Primary Examiner  
Art Unit 2615  
12/08/2006